

Appl. No. : 10/790,932
Filed : March 2, 2004

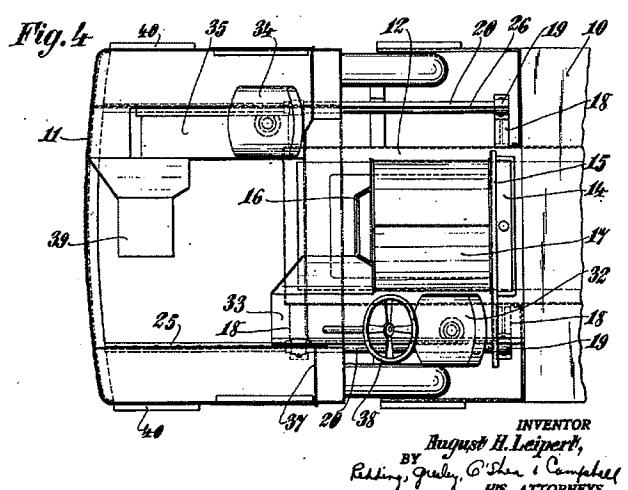
REMARKS

In response to the Office Action mailed on October 17, 2006, Applicant respectfully requests reconsideration and allowance of the present application in view of the amendments set forth above and the remarks set forth below.

Upon a review of the Office Action and the prior Office Action, Applicant notes that the bases for each the rejections have not changed. The Examiner, however, explicitly stated on page 2 of the Office Action: "Examiner is interpreting the term 'below' reasonably broad as defined by Merriam-Webster Online dictionary as 'in or to a lower place.'" The Examiner also explicitly stated on page 9: "In response to the applicant's argument that 'in other words,' the claim construction features an engine when viewed from above overlaps with the seat assemblies, examiner directs applicant to the rejection of claim 1 above wherein the definition of below is recited. Interpreted reasonably broad, examiner contends that the claim construction, as recited, does not require the engine to overlap the seat assemblies when observed in a plan view." Thus, Applicant has taken into account in this response the Examiner's comments.

Claims 1 and 20 Are Patentable Over the Applied Combination

Claims 1-5, 13-17 and 20-23 have been rejected as unpatentable over Leipert (U.S. Pat. No. 1,852,464) in view of Fukamachi (U.S. Pat. No. 6,405,823).



As discussed in the previous response, Leipert disclosed a moveable cab assembly for a truck. The seats were positioned to the lateral sides of the engine but did not overlap the engine. See, e.g., Col. 1, lines 1-9. Fukamachi disclosed a three-wheeler construction in which the engine would be located beneath the single seat of the three-wheeler.

To the contrary, Claim 1 and Claim 20 each recite that at least a portion of at least one of the two seat assemblies overlaps a portion of the engine when viewed from above. Neither reference taught or suggested such a construction. Thus, the applied combination of the two references could not have taught such a construction

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and Claims 1 and 20 define over the applied combination. Reconsideration and allowance of Claims 1 and 20 are respectfully requested.

Claims 2-19 and 21-27 Also Are Patentable

Claims 2-5, 13-17 and 21-27 were rejected as unpatentable over Leipert in view of Fukamachi while Claims 6-12 were rejected as unpatentable over Leipert in view of Fukamachi and further in view of Rioux et al. (U.S. Patent No. 6,648,093) and Claims 18 and 19 were rejected as unpatentable over Leipert in view of Fukamachi and further in view of Matsuura et al. (U.S. Patent No. 6,920,949).

Neither Rioux et al. nor Matsuura et al. taught or suggested at least a portion of at least one of the two seat assemblies overlapping a portion of the engine when viewed from above. Hence, even when these two additional references are combined with the two references used to reject Claim 1 and Claim 20, the combinations fail to teach or suggest all of the limitations of Claim 1 and Claim 20. Because the claims that are the subject of these further rejections ultimately depend from Claim 1 or Claim 20, these claims are allowable over the applied art for at least the same reasons that Claims 1 and 20 are allowable over such art. In addition, at least some of these dependent claims recite further distinctions over the applied combination. Reconsideration and allowance of these dependent claims are respectfully requested.

New Claims 28-43 Also Are Patentable

New Claims 28-43 also are believed patentable over the applied prior art. These claims are supported by, for example, Figures 1-3 and paragraphs [0028], [0029], [0032]-[0036], [0052], [0054], [0057], [0067], [0068], [0084], and [0094]-[0096]. No new matter is added in these new claims.

Applicant has added these claims to provide more variation in the scopes of protection afforded by the present application. Consideration and allowance of these claims are respectfully requested.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks and, accordingly, issuance of a Notice of Allowance is most earnestly solicited. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to

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only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Applicants also have not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicants reserve the right to later contest whether a proper motivation and suggestion exists to combine these references.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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